

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Yolexis Rodriguez	Team: Squad #11	CCRB Case #: 201809053	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 10/30/2018 4:50 PM	Location of Incident: 32nd Precinct stationhouse	Precinct: 32	18 Mo. SOL 4/30/2020	EO SOL 12/15/2020	
Date/Time CV Reported Tue, 10/30/2018 5:30 PM	CV Reported At: Office of City Council member	How CV Reported: Call Processing System	Date/Time Received at CCRB Tue, 10/30/2018 5:30 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Barker	15981	957358	032 PCT
2. An officer			Unknown

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Barker	Abuse: Police Officer Michael Barker refused to provide his shield number to § 87(2)(b)	
B.POM Michael Barker	Abuse: Police Officer Michael Barker refused to provide his name to § 87(2)(b)	
C.POM Michael Barker	Abuse: Police Officer Michael Barker refused to provide his name to § 87(2)(b)	
D.POM Michael Barker	Abuse: Police Officer Michael Barker refused to provide his shield number to § 87(2)(b)	
E.POM Michael Barker	Abuse: Police Officer Michael Barker refused to provide his shield number to § 87(2)(b)	
F.POM Michael Barker	Abuse: Police Officer Michael Barker refused to provide his name to § 87(2)(b)	
G.POM Michael Barker	Abuse: Police Officer Michael Barker failed to provide § 87(2)(b) with a business card.	
H.POM Michael Barker	Abuse: Police Officer Michael Barker failed to provide § 87(2)(b) with a business card.	
I.POM Michael Barker	Abuse: Police Officer Michael Barker failed to provide § 87(2)(b) with a business card.	
J.POM Michael Barker	Abuse: Police Officer Michael Barker failed to provide § 87(2)(b) with a business card.	
K. An officer	Abuse: An officer refused to provide his shield number to § 87(2)(b)	
L.POM Michael Barker	Abuse: Police Officer Michael Barker threatened to arrest § 87(2)(b)	
M.POM Michael Barker	Force: Police Officer Michael Barker used physical force against § 87(2)(b)	

Case Summary

§ 87(2)(b) filed the following complaint with the CCRB through a New York City Council office on October 30, 2018.

On October 30, 2018, at approximately 4:50p.m., § 87(2)(b) went to the 32nd Precinct stationhouse in Manhattan to retrieve property that was seized after she was arrested on § 87(2)(b). § 87(2)(b) went to the stationhouse with her boyfriend § 87(2)(b) his mother § 87(2)(b) and his sister § 87(2)(b). PO Michael Barker of the 32nd Precinct approached the group in the lobby of the stationhouse. § 87(2)(b) explained that she and § 87(2)(b) were there to retrieve property. PO Barker reviewed paperwork that § 87(2)(b) and § 87(2)(b) provided detailing the property that was seized and told them that they could not receive their belongings on that day.

§ 87(2)(b) asked PO Barker for his shield number. He did not provide it and continued to talk about the property being retrieved (**Allegation A – Abuse of Authority**, § 87(2)(g)). § 87(2)(b) and § 87(2)(b) then asked PO Barker for his name and shield number; PO Barker did not provide this information (**Allegations B, C, D and E – Abuse of Authority**, § 87(2)(g)). § 87(2)(b) then asked PO Barker for his name and he pointed to his shield. § 87(2)(b) could not see PO Barker's shield because his left shoulder was covering it. PO Barker did not verbally provide his name (**Allegation F – Abuse of Authority**, § 87(2)(g)).

According to § 87(2)(b) all four civilian parties present asked PO Barker for his business card and he did not provide it (**Allegations G, H and I – Abuse of Authority**, § 87(2)(g); **Allegation J – Abuse of Authority**, § 87(2)(g)). At an unspecified time, an unidentified officer approached the group. § 87(2)(b) asked this officer for his shield number and he did not reply (**Allegation K – Abuse of Authority**, § 87(2)(g)). PO Barker asked the group to leave the stationhouse. § 87(2)(b) tried to take a photo of PO Barker, who told her that she would be arrested if she did not leave (**Allegation L – Abuse of Authority**, § 87(2)(g)). PO Barker and the unidentified officer then tried to push the group out of the stationhouse. PO Barker placed a hand on § 87(2)(b) back and pushed him out of the stationhouse (**Allegation M – Force**, § 87(2)(g)).

There is no video evidence of the incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Michael Barker refused to provide his shield number to § 87(2)(b)

Allegation (B) Abuse of Authority: Police Officer Michael Barker refused to provide his name to § 87(2)(b)

Allegation (C) Abuse of Authority: Police Officer Michael Barker refused to provide his name to § 87(2)(b)

Allegation (D) Abuse of Authority: Police Officer Michael Barker refused to provide his shield number to § 87(2)(b)

Allegation (E) Abuse of Authority: Police Officer Michael Barker refused to provide his shield number to § 87(2)(b)

Allegation (F) Abuse of Authority: Police Officer Michael Barker refused to provide his name to § 87(2)(b)

Allegation (G) Abuse of Authority: Police Officer Michael Barker failed to provide § 87(2)(b) with a business card.

Allegation (H) Abuse of Authority: Police Officer Michael Barker failed to provide § 87(2)(b) with a business card.

Allegation (I) Abuse of Authority: Police Officer Michael Barker failed to provide § 87(2)(b) with a business card.

In their sworn statements, § 87(2)(b) and § 87(2)(b) agreed that PO Barker refused to provide his name, shield and business card to § 87(2)(b) [Board Review 01, 02, 03]. In her statement § 87(2)(b) noted that PO Barker also refused to provide his name, shield and business card to herself and § 87(2)(b). During her statement, § 87(2)(b) noted that she asked PO Barker for a business card and told him that she would take a photo of his shield because he would not provide a business card with his information.

Attempts to obtain a verified statement from witness § 87(2)(b) daughter, were unsuccessful. During her unverified phone statement, § 87(2)(b) stated that § 87(2)(b) asked an officer for his shield but he did not provide it; § 87(2)(b) noted that § 87(2)(b) and § 87(2)(b) did not ask for any other information from the officer. § 87(2)(b) was scheduled for two interview appointments and did not appear for either appointment.

PO Barker was interviewed at the CCRB on February 1, 2019 [Board Review 04]. PO Barker testified that three civilians were present at the stationhouse during the incident: § 87(2)(b) and § 87(2)(b). PO Barker testified that § 87(2)(b) asked him for his name and shield, and he provided this information. PO Barker did not recall if § 87(2)(b) asked him for his name, shield or a business card. PO Barker testified that he did not decline to provide his name or shield to anyone else. PO Barker was asked for a business card by § 87(2)(b) he was not asked for a business card by any other civilian present.

§ 87(2)(g)

Allegation (J) Abuse of Authority: Police Officer Michael Barker failed to provide § 87(2)(b) with a business card.

§ 87(2)(b) testified that she asked PO Barker for a business card after he stated that § 87(2)(b) and § 87(2)(b) could not receive their property [Board Review 01]. PO Barker said that he could not give her a business card. § 87(2)(b) stated that it was her right to receive a business card and PO Barker told her that there were no business cards.

PO Barker testified that § 87(2)(b) asked him for a business card and he did not provide it because the situation was volatile and § 87(2)(b) was being disorderly [Board Review 04]. During the interaction, § 87(2)(b) became irate and began shouting because § 87(2)(b).

property could not be returned to him. She began to use profanity, though PO Barker could not recall what words she used specifically. § 87(2)(b) began to walk around the stationhouse vestibule and PO Barker believed that other civilians in the stationhouse were uncomfortable based on their facial expressions. PO Barker did not believe that it was safe to stop what he was doing to get a business card. PO Barker explained that business cards are generally kept in an officer's memo book binder. As a Telephone Switchboard Operator, PO Barker did not have his memo book on his person; he would have had to retrieve them from the Telephone Switchboard desk.

According to New York City Police Department Patrol Guide Procedure 203-09, a member of service is to provide a business card at the request of a member of the public [Board Review 11]. A member of service must carry an appropriate amount of generic Right to Know business cards on their person. If the supply of pre-printed business cards becomes depleted, a member of service may carry generic Right to Know business cards. Procedure 203-09 notes that the presence of exigent circumstances is an exception to the requirement.

§ 87(2)(g)

Allegation (K) Abuse of Authority: An officer refused to provide his shield number to § 87(2)(b)

§ 87(2)(b) testified that a second officer, who she described as a Black male, 5'4" tall, bald, in his 50s and wearing a uniform, did not reply when she asked him for his shield [Board Review 03]. In her statement, § 87(2)(b) also stated that a Black male officer was present, who she described as 5'6" tall, having black and gray hair, a heavyset build, in his 50s and wearing a uniform, though she did not state that § 87(2)(b) asked this officer for his shield.

PO Barker testified that there were multiple officers entering the stationhouse during the incident, though he could not recall who they were [Board Review 04].

§ 87(2)(g)

Allegation (L) Abuse of Authority: Police Officer Michael Barker threatened to arrest § 87(2)(b)

It is undisputed that a threat of arrest was made § 87(2)(g). § 87(2)(b) testified that after she took a photo of PO Barker, he told her to leave the stationhouse [Board Review 01]. PO Barker said that if she

did not get out that she would be arrested. § 87(2)(b) said that she would leave and exited the stationhouse while § 87(2)(b) and § 87(2)(b) remained inside.

PO Barker testified that once he told the group that they had to leave the stationhouse, § 87(2)(b) attempted to take photos or record a video with her phone [Board Review 04]. PO Barker told § 87(2)(b) that she had to stop recording or leave. He pointed out signs in the vestibule and near the entrance of the stationhouse stating that audio or video recording and picture taking inside the stationhouse were prohibited. PO Barker testified that § 87(2)(b) was being disorderly and the act of recording video in a stationhouse is considered trespassing, both of which are offenses that a civilian may be arrested for. PO Barker did not recall if he articulated this to § 87(2)(b)

§ 87(2)(g)

Allegation (M) Force: Police Officer Michael Barker used physical force against § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) agreed that PO Barker pushed § 87(2)(b) through the front door of the stationhouse using one hand [Board Review 01, 02]. In her statement, § 87(2)(b) noted that an officer made physical contact with § 87(2)(b) when ushering the group out of the stationhouse, though she was unsure who.

PO Barker testified that he asked the group to leave the stationhouse and § 87(2)(b) refused to leave without his property [Board Review 04]. PO Barker again told § 87(2)(b) that he had to leave the stationhouse. He then escorted § 87(2)(b) out of the stationhouse by placing his hand on § 87(2)(b) back and guiding him out of the stationhouse door, without pushing § 87(2)(b)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first complaint filed by § 87(2)(b) [Board Review 05].
- This is the first complaint filed by § 87(2)(b) [Board Review 06].
- This is the third complaint filed by § 87(2)(b) [Board Review 07]. § 87(4-b), § 87(2)(g)
- This is the first complaint filed by § 87(2)(b) [Board Review 11].

- PO Michael Barker has been a member of service for 4 years and has no other allegations against him.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- On April 9, 2019, a Notice of Claim request was submitted to the New York City Comptroller's Office and will be added to the case file upon receipt.
- According to the Office of Court Administration (OCA), § 87(2)(b) has no conviction history as of April 9, 2019 [**Board Review 08**].
- According to the Office of Court Administration (OCA), § 87(2)(b) has no conviction history as of April 9, 2019 [**Board Review 09**].
- § 87(2)(b) _____

- According to the Office of Court Administration (OCA), § 87(2)(b) has no conviction history as of April 15, 2019 [**Board Review 12**].

Squad No.: _____ 11 _____

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date